

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS MELODY DAVIS	DEFENDANTS LIBERTY INSURANCE CORPORATION
(b) County of Residence of First Listed Plaintiff <u>Cumberland County, PA</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed <u>Suffolk County, Mass</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Joe Zenstein, Esquire, 435 N. Main Street, Doylestown, PA (215) 230-0800	Attorneys (If Known) Pamela A. Carlos, Esquire, Bennett, Bricklin & Saltzburg, LLC, 1601 Market Street, 16th Floor, Philadelphia, PA 19103 - (215) 665-3315

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width:100%;"> <tr> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td>X 1</td> <td><input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5 X 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3 Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	X 1	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 X 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)						
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>28 U.S.C. §§1332, 1441 and 1446</u> Brief description of cause: <u>breach of contract, bad faith pursuant to 42 Pa. C.S.A. 8371</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ In excess \$75,000	CHECK YES only if demanded in complaint: JURY DEMAND: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE February 24, 2015	SIGNATURE OF ATTORNEY OF RECORD
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FOR OFFICE USE ONLY				
RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 28 Wallace Drive, Delmar, New York 12054

Address of Defendant: 175 Berkeley Street, Boston, MA 02117

Address of Co-Defendant: _____

Place of Accident, Incident or Transaction 2216 Logan Street in Camp Hill, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)).

Yes ☐ No ☒ X

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒ X

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒ X
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒ X
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒ X

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☒ X Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: February 24, 2015

Samela A. Corliss

56396

Attorney-at-Law

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

<u>MELODY DAVIS</u>	:	
	:	
vs.	:	
	:	
<u>LIBERTY INSURANCE</u>	:	
<u>CORPORATION</u>	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

02/24/15 Pamela A. Carlos, Esquire
Date Attorney-at-law

Liberty Insurance Corporation
Attorney for Defendant

(215) 665-3315
Telephone

(215)561-6661
FAX Number

Carlos@bbs-law.com
E-Mail Address

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

<u>MELODY DAVIS</u>	:	
	:	
vs.	:	
	:	
<u>LIBERTY INSURANCE</u>	:	
<u>CORPORATION</u>	:	NO.

NOTICE OF REMOVAL

TO: Joseph Zenstein, Esquire
Claims Worldwide, LLC
435 N. Main Street
Doylestown, PA 18901

PLEASE TAKE NOTICE that defendant, Liberty Insurance Corporation has filed in this Court a verified Notice for Removal of the State Court action, Melody Davis vs. Liberty Insurance Corporation, now pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, November Term, 2014 No. 02091.

PLEASE TAKE FURTHER NOTICE that a certified copy of the Notice of Removal will be filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania.

PLEASE BE ADVISED that by virtue of 28 U.S.C. §1446(f), the State action is now removed to this Court. The State Court has no further jurisdiction over this action and you should proceed no further in that Court or under its authority.

BY: *Pamela A. Carlos*
PAMELA A. CARLOS, ESQUIRE
LILY K. HUFFMAN, ESQUIRE
Attorneys for Defendant
BENNETT, BRICKLIN & SALTZBURG LLC
1601 Market Street, 16th Floor
Philadelphia, PA 19103
carlos@bbs-law.com
(215) 665-3315
huffman@bbs-law.com
(215) 665-3353

DATE: 02/24/15

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

<u>MELODY DAVIS</u>	:	
	:	
vs.	:	
	:	
<u>LIBERTY INSURANCE</u>	:	
<u>CORPORATION</u>	:	NO.

**NOTICE FOR REMOVAL OF CIVIL ACTION
FROM STATE COURT**

AND NOW, comes defendant, Liberty Insurance Corporation, (hereinafter “Liberty” or “defendant”) for the purpose only of removing the case to the United States District Court for the Eastern District of Pennsylvania and respectfully avers as follows:

1. This is a civil action filed and now pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, November Term, 2014 No. 02091.

2. Said action was commenced by the filing of a Writ of Summons on November 19, 2014. The Writ was served via certified mail on Liberty. After defendant filed a Rule to File Complaint, Plaintiff filed her complaint with the court on January 30, 2015. A true and correct copy of plaintiff’s Complaint is attached hereto, made a part hereof and marked as Exhibit “A”.

3. The averments made herein are true and correct with respect to the date and time upon which suit was commenced and the date upon which this notice is being filed.

4. This suit is of a civil nature and involves a controversy between citizens of different states. Plaintiff is an individual who now, and was at the time plaintiff commenced this action, a citizen of New York. Defendant, Liberty, is now and was at the time plaintiff commenced this civil action and filed her complaint, a corporation organized under the laws of the State of Illinois and with its principal place of business at 175 Berkeley Street in Boston, Massachusetts.

5. Defendant, Liberty, has simultaneously with the filing of this notice, given written notice to the plaintiff.

6. Defendant, Liberty, is also filing a copy of the instant notice of removal and all attachments thereto with the Prothonotary of the Court of Common Pleas of Philadelphia County.

7. The Complaint asserts breach of contract and bad faith pursuant to 42 Pa.C.S.A. § 8371. The amount in controversy with regard to the breach of contract claim is listed to be less than \$50,000. Plaintiff also attached a complaint from her public adjuster which totals approximately \$11,221.00.¹

8. In her bad faith claim, pursuant to 42 Pa. C.S.A. §8371, plaintiff seeks in addition to compensatory damages, interest upon the amount of the contract claim against defendant at prime rate plus three percent, punitive damages, attorney's fees and costs.

9. Defendant seeks to remove this matter to the United States District Court for the Eastern District of Pennsylvania. Defendant asserts that the amount in controversy in this matter exceeds \$75,000. As the moving party, defendant bears the burden of proving that jurisdiction is proper in federal court. Russ vs. State Farm Mut. Auto. Ins. Co., 961 F.Supp. 808, 810 (E.D. Pa. 1997).

10. In determining whether the jurisdiction amount has been satisfied, the Court must first look at the Complaint. Angus vs. Shiley, Inc., 989 F.2d 142, 145 (3rd Circ. 1993).

11. The underlying lawsuit as alleged in the Complaint arises out of defendant's handling of a property damage claim to plaintiff's property located at 2216 Logan Street in Camp Hill, Pennsylvania for a loss that occurred on or about May 4, 2014.

12. There is no specific assertion as to the amount in controversy set forth in plaintiff's complaint. However, plaintiff avers in her breach of contract claim that the damages caused by the loss was less than \$50,000 and attach an estimate from Summit Public Adjusters as Exhibit "A" to the complaint which indicates total damages of approximately \$11,221. See Exhibit "A".

¹ Defense counsel contacted plaintiff's counsel to determine if plaintiff would be willing to stipulate to cap damages. Plaintiff's counsel stated that despite the public adjuster's estimate, he was unable to stipulate to capping damages which has required Liberty to file the instant removal.

13. With reference to her bad faith claim pursuant to 42 Pa. C.S.A. §8371, plaintiff avers that she is seeking punitive damages, interest, as well as attorney's fees and costs for litigation. Attorney's fees must also be included in determining the amount in controversy. Neff vs. General Motors Corp., 163 F.R.D. 478, 482 (E.D. Pa. 1995). It would not be unreasonable to expect that over the course of an approximate six month litigation, counsel could incur costs and fees in an amount approaching \$15,000.

14. In addition, it is anticipated that plaintiff will also seek punitive damages pursuant to 42 Pa. C.S.A. §8371. Whether both actual and punitive damages are recoverable, punitive damages are properly considered in determining whether the jurisdictional amount has been satisfied. Bell vs. Preferred Life Assurance Soc'y, 320 U.S. 238, 240, 88 L. Ed. 15, 64 S. Ct. 5 (1943). The contractual amount in controversy alleged in the Complaint are approximately \$11,221.00 based on the allegations in the Complaint, coupled with estimated reasonable attorneys' fees, and if plaintiff is able to sustain a finding of bad faith, although the propriety of same is disputed by moving defendant, it is not unreasonable to expect that a punitive damage award five or six times the amount in controversy could be rendered by the trier of fact.

WHEREFORE, defendant, Liberty Insurance Corporation, hereby removes this suit to this Honorable Court pursuant to the laws of the United States in such cases made and provided.

By: PAC2642 
PAMELA A. CARLOS, ESQUIRE
LILY K. HUFFMAN, ESQUIRE
Attorney for Defendant
BENNETT, BRICKLIN & SALTZBURG LLC
1601 Market Street, 16th Floor
Philadelphia, PA 19103
carlos@bbs-law.com
(215)665-3315
huffman@bbs-law.com
(215) 665-3353

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

MELODY DAVIS :
 :
 vs. :
 :
 LIBERTY INSURANCE :
 CORPORATION : NO.

**DEFENDANT'S CERTIFICATION OF FILING OF
COPY OF NOTICE OF REMOVAL WITH STATE COURT**

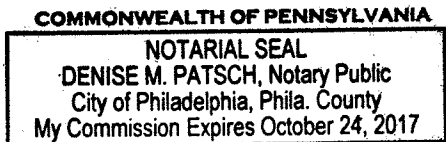
Pamela A. Carlos, Esquire, being duly sworn according to law, deposes and says that she is a member with the law firm of Bennett, Bricklin & Saltzburg LLC, attorneys for defendant, Liberty Insurance Corporation.

That she did direct the filing with the Prothonotary of the Court of Common Pleas of Philadelphia County a copy of the Notice of Removal, attached hereto, said filing to be made on February 24, 2015.

BY: *Pamela A. Carlos*
PAMELA A. CARLOS, ESQUIRE
Attorney for defendant
BENNETT, BRICKLIN & SALTZBURG LLC
1601 Market Street, 16th Floor
Philadelphia, PA 19103
Carlos@bbs-law.com
(215) 665-3315

Sworn to and subscribed
before me this 24th day
of February, 2015.

Denise M. Patsch
NOTARY PUBLIC



IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

MELODY DAVIS :
 :
 vs. :
 :
 LIBERTY INSURANCE :
 CORPORATION : NO.

CERTIFICATE OF SERVICE

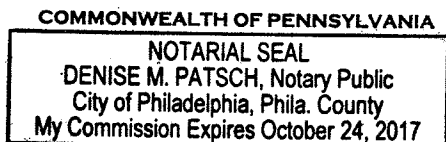
Pamela A. Carlos, Esquire, being duly sworn according to law, deposes and says that she is an attorney with the law firm of Bennett, Bricklin & Saltzburg LLC, attorneys for defendant, Liberty Insurance Corporation and that she certifies that a true and correct copy of this Removal Petition was filed electronically and is available for viewing and downloading from the Electronic Case filing system which constitutes service upon the following counsel of record :

Joseph Zenstein, Esquire
Claims Worldwide, LLC
435 N. Main Street
Doylestown, PA 18901

BY: *Pamela A Carlos*
PAMELA A. CARLOS, ESQUIRE
Attorney for Defendant
BENNETT, BRICKLIN & SALTZBURG LLC
1601 Market Street, 16th Floor
Philadelphia, PA 19103
(215) 665-3353

Sworn to and subscribed
before me this 24th day
of February, 2015.

Denise M. Patsch
NOTARY PUBLIC



AFFIDAVIT

I, Pamela A. Carlos, Esquire, being duly sworn according to law, do hereby depose and state that I am the attorney for Defendant, Liberty Insurance Corporation, the Petitioner in the foregoing Notice of Removal, that I have been duly authorized by the Petitioner to execute this Affidavit, that I am familiar with the facts involved in this matter, and that the allegations set forth in the foregoing Notice of Removal are true and correct to the best of my knowledge, information and belief.



PAMELA A. CARLOS, ESQUIRE

DATE: February 24, 2015

EXHIBIT “A”

CLAIMS WORLDWIDE, LLC

By: JOSEPH A. ZENSTEIN, ESQUIRE

Identification No.: 62349

One Penn Center, Suite 1270

1617 John F. Kennedy Boulevard

Philadelphia, PA 19103

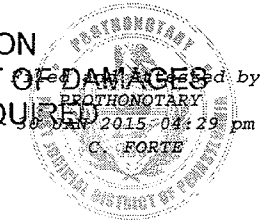
jzenstein@claimsworldwide.com

(215) 230-0800

IN ARBITRATION

ASSESSMENT OF DAMAGES

HEARING REQUESTED



Attorney for Plaintiff

MELODY DAVIS
28 Wallace Drive
Delmar, NY 12054

v.

LIBERTY INSURANCE CORPORATION
175 Berkeley Street
Boston, MA 02117

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

NOVEMBER TERM, 2014

NO. 2091

CIVIL ACTION

NOTICE

You have been sued in court. If you wish to defend against Plaintiffs' claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to Plaintiffs' claims set forth against you. You are warned that if you fail to do so the case may proceed without you and judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o a entregar a la corte en forma con un abogado y escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demandante y la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted. INMEDIATAMENTE. SI NO TIENE ABOGADO O SINO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL

PHILADELPHIA COUNTY BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
One Reading Center
PHILADELPHIA, PENNSYLVANIA 19107
TELEPHONE: (215) 238-6333

CLAIMS WORLDWIDE, LLC

By: JOSEPH A. ZENSTEIN, ESQUIRE
Identification No.: 62349
One Penn Center, Suite 1270
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103
jzenstein@claimsworldwide.com
(215) 230-0800

IN ARBITRATION
ASSESSMENT OF DAMAGES
HEARING REQUIRED

Attorney for Plaintiff

MELODY DAVIS
28 Wallace Drive
Delmar, NY 12054

v.

LIBERTY INSURANCE CORPORATION
175 Berkeley Street
Boston, MA 02117

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

NOVEMBER TERM, 2014

NO. 2091

CIVIL ACTION

(1C. Contracts; 1J. Bad Faith)

1. Plaintiff, MELODY DAVIS is an adult individual residing at the address as set forth above.

2. Defendant, LIBERTY INSURANCE CORPORATION is a corporation duly organized and existing which is licensed to issue policies of insurance in the Commonwealth of Pennsylvania and maintains its principal place of business at the address set forth above. Defendant regularly conducts business in the City and County of Philadelphia.

3. At all times material hereto, Defendant was acting by and through its duly authorized agents, servants, workmen or employees who were acting within the course and scope of their employment and on the business of said employers.

4. Defendant in its regular course of business, issued to Plaintiff a policy of

insurance, policy number H3728866259070, covering Plaintiff's premises located at 2216 Logan Street, Camp Hill, PA 17011. Plaintiff is not in possession of the entire policy and it is alleged that said policy is in the possession of Defendant.

5. On or about May 4, 2014, while said policy of insurance was in full force and effect, Plaintiff suffered a sudden and accidental direct physical loss to the insured premises resulting in damage to the insured premises in those areas and to the extent set forth in the estimate of Summit Public Adjusters, Inc. (hereinafter "Summit") a true and correct copy of which is attached hereto, made part hereof, and marked Exhibit "A". Plaintiff also sustained loss of rental income in the amount of \$1,650 per month for a period of approximately five (5) months.

6. Notice of Plaintiff's covered loss was given to Defendant in a prompt and timely manner and Plaintiff has done and otherwise performed all things required of Plaintiff under the policy of insurance issued by Defendant, including cooperating with Liberty's investigation; mitigating damages where reasonable, required and/or possible; providing Defendant with all available information and complying with all conditions precedent.

7. Defendant, despite demand for benefits under its policy of insurance has failed and refused to pay to Plaintiff the benefits due and owing under said policy of insurance.

8. As a direct result of Defendant's failure and refusal to pay benefits to Plaintiff as required under the aforementioned policy of insurance, as well as the mishandling of Plaintiff's claim, Plaintiff has suffered loss and damage in an amount not in excess of \$50,000.00.

COUNT I –BREACH OF CONTRACT

9. Plaintiff incorporates by reference herein the facts and allegations contained in the foregoing paragraphs as though same were set forth herein at length.

10. Defendant has breached its contractual obligations to pay benefits to Plaintiff for a loss covered under Defendant's policy of insurance.

WHEREFORE, Plaintiff demands judgment against Defendant in an amount not in excess of \$50,000.00 together with interest and costs.

COUNT II - BAD FAITH

11. Plaintiff incorporates by reference herein the facts and allegations contained in the foregoing paragraphs as though same were set forth herein at length.

12. Plaintiff's claim was based upon a portion of the building collapsing.

13. Defendant denied Plaintiff's claim based on a provision of the policy which excludes coverage for damages caused as a result of improper installation.

14. On July 29, 2014, Summit sent a letter to Defendant which states, inter alia, the following:

"[T]he insured's HO3 policy does afford coverage for this loss because, to quote paragraph 8 regarding Collapse "we insure for direct physical loss to covered property involving collapse of a building or any part of a building caused only by ...use of defective material or methods in construction".

A copy of the letter dated July 29, 2014 is attached hereto and marked as Exhibit "B".

15. Defendant did not change its coverage position despite the July 29, 2014, letter and the express language of the policy.

16. Defendant knowingly and intentionally misrepresented either terms and conditions of the policy and/or the facts of the claim in order to deny coverage based on

an exclusion that does not apply to the facts of Plaintiff's claim.

17. In furtherance of its bad faith and wrongful denial and refusal to pay benefits for Plaintiff's covered loss, Defendant, acting by and through its duly authorized agents, servants, workmen or employees, has engaged in the following conduct:

- (a) in placing its interests over the interests of its insured;
- (b) in misrepresenting terms and conditions of the policy;
- (c) in misrepresenting the facts;
- (d) in interpreting ambiguous terms of the insurance policy in its favor in order to deny a covered loss;
- (e) in denying Plaintiff's claim without any credible evidence to substantiate its basis for denial;
- (f) in implementing a plan, practice, or policy of placing its interests over those of its insureds;
- (g) in denying Plaintiff's claim without doing an inspection or proper investigation;
- (h) in failing to effectuate a fair and equitable settlement of Plaintiff's claim when its liability under the policy became reasonably clear;
- (i) in treating Plaintiff with reckless indifference and disregard under the circumstances;
- (j) in not having a reasonable basis for denying Plaintiff the benefits due under the policy and in knowingly or recklessly disregarding its lack of reasonable basis when it denied Plaintiff's claim;

18. Solely as a result of Defendant's bad faith misconduct as aforesaid,

Plaintiff has been required to obtain counsel to commence the present action to recover benefits due and owing under the policy of insurance issued by Defendant for Plaintiff's covered loss and has incurred costs and other expenses in connection with said claim.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory damages, punitive damages, counsel fees and costs, together with interest on Plaintiff's claim in an amount equal to the prime rate of interest plus three percent (3%), in an amount not in excess of \$50,000.00.

CLAIMS WORLDWIDE, LLC

BY: /s/
JOSEPH A. ZENSTEIN, ESQUIRE
Attorney for Plaintiffs

Date: January 30, 2015

VERIFICATION

The undersigned, having read the attached document, verifies that the within document is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the document is that of counsel and not of signer. Signer verifies that he/she has read the within document and that it is true and correct to the best of signer's knowledge, information and belief. To the extent that the contents of the document are that of counsel, verifier has relied upon counsel in taking this Verification. This Verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

x 
MELODY DAVIS

FILE NO.: 526-89

Case ID: 141102091

EXHIBIT "A"



Report Date: 8/30/2014

File No. 14216

Contractor	Address	FAX		
Property Owner	Address	Office	Home	FAX
Melody Davis	2216 Logan Street Camp Hill, PA 17011		(518) 915-1440	
Building Address	2216 Logan Street Camp Hill, PA 17011			

Building**Miscellaneous**

Operation	Qty	Unit	Description	Cost	Extension
Charge	1		Final construction clean-up, minimum	425.00	425.00
Fee	1	EA	Dumpster, 10 cy, rental per week	450.00	450.00
Treat	1	SF	Germicide and mildewcide treatment, germicide	120.00	120.00
Minimum	1	EA	Water extraction work minimum, Standard	280.75	280.75
Note: by insured					
Miscellaneous Totals:					1,275.75

Bedroom

Floor 22 SY Wall 412 SF Ceiling 198 SF Floor Perim. 57.5 FT Ceiling Perim. 57.5 FT

Room-standard-1 Length 13.00 FT, Width 12.75 FT, Height 8.00 FT

Offset-standard-1 Width 10.75 FT, Depth 3.00 FT, Height 0.00 FT, Qty of Offsets 1

Operation	Qty	Unit	Description	Cost	Extension
Minimum	1	EA	Move and cover room contents, average	141.00	141.00
Mask	1	EA	Mask room, large	43.86	43.86
Note: floors					
Rem & Reinstall	1	EA	Ceiling fan with light, standard grade	110.41	110.41
Remove	198	SF	Blown mineral wool insulation, R30 (10" deep)	0.55	108.90
Replace	198	SF	Blown mineral wool insulation, R30 (10" deep)	1.96	388.08
Note: ceiling					
Remove	1	SF	Acoustical plaster, Three coats on painted metal lath, on ceiling	553.85	553.85
Replace	1	SF	Acoustical plaster, Three coats on painted metal lath, on ceiling	3,046.15	3,046.15
Paint	610	SF	Drywall or Plaster, 2 coats	0.90	549.00
Paint	1	LF	Door, Panel, 2 coats	54.00	54.00
Remove	57.5	LF	Base Molding, Pattern base, 5", finger-joint pine	0.74	42.55
Replace	57.5	LF	Base Molding, Pattern base, 5", finger-joint pine	4.59	263.92
Remove	57.5	LF	Cove, 1", paint-grade pine	0.27	15.52
Replace	59.8	LF	Cove, 1", paint-grade pine	2.29	136.94
Paint	117	LF	Wood trim, simple design, 2 coats	1.32	154.44
Remove	198	SF	Plank flooring, Red oak, #1 common grade	0.47	93.06
Replace	198	SF	Plank flooring, Red oak, #1 common grade	11.99	2,374.02

Bedroom Totals:	8,075.70
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Subtotal	9,351.45
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Overhead	935.15
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Profit	935.15
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Building Total:	11,221.75
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Report Date: 8/30/2014

File No. 14216

Loss of Rent / Income**Miscellaneous**

Operation	Qty	Unit	Description	Cost	Extension
Charge	1	LF	Loss of Rent / Income, minimum	0.00	0.00
Note: specific dates and time span yet to be determined					

Miscellaneous Totals:					0.00
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Loss of Rent / Income Total:					0.00
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Estimate based upon scope and discussion with Insured at initial inspection regarding damages. This estimate may be subject to additions or deletions after inspection with Insurance Company. In some instances damages may worsen or be alleviated due to drying. Some items include, i.e. roofing, siding, painting, flooring includes areas of continuation due to matching or non availability of items. Carpet and or carpet pad replacement may be included due to grey or black water exposure. Any remediation bills attached to this estimate may be paid direct to the service provider. Any discrepancies with any attached bills should be directed to the contractor. If containment barriers are included in this estimate it is based upon EPA guidelines for lead containment, safety barriers and removal.

EXHIBIT “B”



Summit Public Adjusters, Inc.

Adjusting Your Insurance Claims Is Our Top Priority!

July 29, 2014

Liberty Mutual Insurance Company
ATTN: Kathleen Zimmardi
P.O. Box 1053
Montgomeryville, PA 18936-1053

2436 Bristol Road
Bensalem, PA 19020
Office: (215) 752-0560
Fax: (215) 752-0561

RE: Melody Davis
2216 Logan Street
Camp Hill, PA 17011
CLAIM#: 029661622-01

Dear Kathleen:

Please regard this as another rejection of your denial of this claim.

In your letter dated July 17, 2014 you stated that Liberty Mutual is unable to afford coverage for this loss because **"we have determined that your policy does not afford coverage for damage resulting deterioration or from improper installation"**. You also quote from the section 1 paragraph 2 – Perils Insured Against – portion of the insured's policy which states that Liberty Mutual does not cover losses caused by **"wear and tear, marring, deterioration"**.

Please be advised that your determination is wrong for several reasons. First, the insured's HO3 policy does afford coverage for this loss because, to quote paragraph 8 regarding Collapse **"we insured for direct physical loss to covered property involving collapse of a building or any part of a building caused by 1 or more of the following: b. hidden decay, f. use of defective material or methods in construction"**. Second, when Liberty Mutual's policy refers to wear and tear, marring, and deterioration, they are referring to water losses with repeated seepage issues.

Clearly this collapse meets the criteria for being a covered loss. In fact, you contradicted yourself, and the policy language, when you admitted that the loss resulted from deterioration and improper installation (covered loss under policy terms) and then proceeded to deny the claim. I highly suggest you re-read the policy language if you are still unsure about the coverages.

I have attached a copy of my revised estimate for your review. Please contact me at your earliest possible convenience to discuss this matter before the insured moves forward with litigation.

Sincerely,

Rick Eastburn

Enclosure: estimate
Cc: Insured

Case ID: 141102091